

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SWAIN CLARKE,

Petitioner,

v.

B. TRATE,

Respondent.

Case No. 1:22-cv-00820-CDB (HC)

ORDER GRANTING PETITIONER'S SECOND
MOTION FOR EXTENSION OF TIME

60-DAY DEADLINE

(Doc. 21)

Petitioner Swain Clarke ("Petitioner") is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On September 7, 2022, Petitioner filed a first amended petition for writ of habeas corpus. (Doc. 11). On December 14, 2022, the Court screened the first amended petition and issued findings and recommendations to dismiss the petition with prejudice as to Petitioner's escape hatch claim and without prejudice as to Petitioner's unconstitutional custody claim. (Doc. 15).

On March 7, 2023, the Honorable District Judge Ana de Alba issued an order adopting in full the December 14, 2022, findings and recommendations. (Doc. 17). Petitioner was provided 30 days from the date of service of the order adopting to file a second amended petition. *Id.* at 2. On March 31, 2022, Petitioner filed a motion for an extension claiming he did not have access to his property or

1 his institution's library. (Doc. 18). Further, Petitioner claimed he would be unable to file a second
2 amended petition because of a pending transfer. *Id.* On April 4, 2023, the Court granted Petitioner's
3 motion and provided him 60 days from the date of service of this order to file a second amended
4 petition. (Doc. 20).

5 Pending before the Court is Petitioner's second motion for an extension of time to file a second
6 amended complaint. (Doc. 21). Petitioner attests he was in transit to his new facility of custody from
7 April 19, 2023 to May 10, 2023, he is currently in a security housing unit and does not have access to
8 his property to file a second amended petition. *Id.* Accordingly, in light of Petitioner's
9 representations and good cause appearing, IT IS HEREBY ORDERED:

- 10 1. Petitioner's motion for an extension of time (Doc. 21) is GRANTED and Petitioner shall
11 have 60 days from the date of service of this order to file a second amended petition; and
- 12 2. The Clerk of Court is DIRECTED to update the docket to reflect Petitioner's new address
13 as Swain Clarke #59134-037, USP-Canaan, P.O. 300, Waymart, PA 18472.

14 IT IS SO ORDERED.

15 Dated: June 15, 2023

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17 UNITED STATES MAGISTRATE JUDGE
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